IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

Crl.MC.No. 3313 of 2007()

CC.150/2006 of CHIEF JUDITIAL MAGISTRATE COURT, THALASSERY

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PETITIONER: ACCUSED NO.1

KOLAPRATH SAJEESH,
AGED 26 YEARS, S/O NARAYANAN NAMBIAR,
RESIDING AT KOLAPRATH HOUSE,
MAKRERI AMSOM DESOM, KANNUR DISTRICT.

BY ADV. SRI.M.SASINDRAN
SRI.K.P.HARISH

RESPONDENT: COMPLAINANT:

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 30/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J

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Crl.M.C. No.3313 Of 2007

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Dated this the 30th day of October, 2007

ORDER

The petitioner faces indictment in a prosecution for offences punishable under Sections 448,324 and 506(ii) read with 34 IPC. Cognizance has been taken on the basis of the private complaint filed by the complainant. Co-accused has already been tried, found not guilty and acquitted. The petitioner was not available for trial. The case against the petitioner was split up. Consequent to non-appearance of the petitioner, coercive processes have been issued against the petitioner. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The absence of the petitioners earlier was not wilful. The petitioner is willing to surrender before the learned Magistrate and seek regular bail.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific

direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself, unless there are compelling reasons.

5. The learned counsel for the petitioner prays that there may be direction for expeditious disposal of the case, inasmuch as the petitioner is employed abroad and has to go back to his place of employment.

6. If is for the petitioner to make such request before the learned Magistrate. The petitioner can also make a request that he may be permitted to appear through his Counsel until he returns to India during his next annual leave. Needless to say, the learned Magistrate with compassion, must consider such requests and pass orders expeditiously.

(R.BASANT, JUDGE)

sj

/TRUE COPY/

P.A.TO JUDGE